HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 16442 OF 2006

DATED: 7.8.2006

Between:

Mylavarapu Venkata Ramana Murty

… Petitioner

and

Commissioner of Endowments,
Govt. of A.P, and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.16442 of 2006

ORAL ORDER:

The petitioner is aggrieved by the auction notice issued on 20.7.2006, proposing auction of the right to conduct sale of 'prasadam' in the 3rd respondent-Devasthanam (for short 'the Devasthanam), for the period 1.9.2006 to 31.3.2007.

The petitioner is an Archaka in the Devasthanam. Pursuant to a notification issued by the Devasthanam for grant of licence for sale of 'prasadam', the petitioner participated in the auction held by the Devasthanam on 12.4.2006 and became the highest bidder for an amount of Rs.3,30,600/-. One third of the bid amount is required to be deposited on the 3rd day, i.e. Rs.1,10,200/-. Instead, the petitioner deposited

Rs.50,000/- on 15.4.2006 and requested time for depositing the balance. The petitioner states that on account of financial constraints and being "a poor Brahmin", he could not deposit the balance 1/3rd of the amount as also the monthly proportionate amounts, as per the terms and conditions of the auction. The arrears of the amounts depositable by the petitioner mounted to around Rs.1,42,850/-.

In the aforesaid circumstances, the Devasthanam intimated the petitioner that it would re-conduct the auction as the due amount was not deposited. The petitioner states to have sought three days time from the Devasthanam to deposit the arrears of Rs.1,42,850/- and to have deposited the same by 22.7.2006. This deposit has been accepted by the Devasthanam.

Despite the petitioner depositing the amounts though belatedly, the Devasthanam is proposing to conduct the auction yet again, for the balance period i.e. 1.9.2006 to 31.3.2007. The petitioner submitted a representation on 25.7.2006 to the Devasthanam to permit him to continue business on his licence, on the basis of the earlier auction held in April, 2006 as he has already paid up the arrears. Since the Devasthanam is proceeding with the auction process initiated by the notice dated 20.7.2006, the petitioner is before this court seeking

appropriate relief.

As the petitioner is a confessed defaulter, for whatever reason, the Devasthanam has an administrative discretion either to continue the petitioner on the same terms by which the auction was held in April, 2006 and licence granted to him, or to treat the petitioner as a defaulter and proceed with the auction process anew. As the petitioner has committed a default, he has landed himself within the discretionary spectrum of the Devasthanam. There is no patent and discernible illegality in the auction proposed by the Devasthanam, warranting interference by this court. As the administrative discretion of weighing the balances of convenience and administrative pragmatism inheres in the Devasthanam, no Mandamus can issue to direct an executive authority to exercise discretion in a particular manner within the allocated sphere of its discretionary spectrum. This principle is too well settled in public law. Therefore, the writ petition must fail. However, if the Devasthanam is satisfied that the petitioner's representation should be considered and that there are circumstances warranting exercise of administrative discretion in favour of the petitioner, the Devasthanam is at liberty to exercise its discretion appropriately.

With the aforesaid observations, the writ petition is dismissed at

the stage of admission, after hearing the learned counsel for the petitioner and the learned Government Pleader for Endowments. There shall be no order as to costs.

GODA RAGHURAM, J

Date: 7.8.2006

cvm